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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,405	04/12/2004	Syed R. Iqbal	1139-026	2888

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EXAMINER	
PHAN, THIEM D	

ART UNIT	PAPER NUMBER
3729	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/822,405	IQBAL ET AL.	
	Examiner	Art Unit	
	Tim Phan	3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-50* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9, drawn to a method of assembling a seat, classified in class 29, subclass 421.1;

II. Claims 10 and 11, drawn to a method of making an insert, classified in class 29, subclass 428;

III. Claims 12-23, drawn to a method of ventilating a seat, classified in class 29, subclass 613;

IV. Claims 24-50, drawn to a method for cooling a seat of a transportation vehicle, classified in class 29, subclass 415;

2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of making an insert as recited in Group II does not require a

backrest cushion thereof, as required by Group I. The subcombination, Invention II, has separate utility such as assembling a seat.

Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of making an insert as recited in Group II does not require a TED thereof, as required by Group III. The subcombination, Invention III, has separate utility such as ventilating a seat.

Inventions II and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of making an insert as recited in Group II does not require a mixing region thereof, as required by Group IV. The subcombination, Invention IV, has separate utility such as cooling a seat of a transportation vehicle.

3. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

separately usable. In the instant case, invention I, has separate utility such as assembling a seat. See MPEP § 806.05(d).

Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I, has separate utility such as assembling a seat. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV, has separate utility such as removing a resulting air mixture from the mixing region. See MPEP § 806.05(d).

4. If applicants elect the invention of Group III, a further Restriction is required; this Group contains claims directed to the following patentably distinct species: Species III-A to H. The species are independent or distinct because:

Species III-A: an embodiment of ventilating a seat with a pulling air through the insert, Claims 13, 20 and 21;

Species III-B: an embodiment of ventilating a seat without pulling air through seat cover, Claims 14 and 15;

Species III-C: an embodiment of ventilating a seat with additional spacer, Claim 16;

Species III-D: an embodiment of ventilating a seat with a conduit, Claim 17;

Species III-E: an embodiment of ventilating a seat with an inlay, Claim 18;

Species III-F: an embodiment of ventilating a seat with two spacers, Claim 19;

Species III-G: an embodiment of ventilating a seat with a valve, Claim 22;

Species III-H: an embodiment of ventilating a seat with a sensor, Claim 23.

Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic claim for the claimed invention.

Applicants are advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. If applicants elect the invention of Group IV, a further Restriction is required; this Group contains claims directed to the following patentably distinct species: Species III-A to H. The species are independent or distinct because:

Species IV-A: an embodiment for cooling a seat of a transportation vehicle with a thermoelectric device, Claims 25-27;

Species IV-B: an embodiment for cooling a seat of a transportation vehicle with a heat exchanger, Claims 28-30;

Species IV-C: an embodiment for cooling a seat of a transportation vehicle with a the mixing region disposed at least within an insert, Claims 31-45;

Species IV-D: an embodiment for cooling a seat of a transportation vehicle with a foam seat cushion, Claims 46;

N.B.: An Office Action on the merits of Claims 47-50, in addition to Claim 24, should follow if any Species above (IV-A to IV-D) is elected.

Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic claim for the claimed invention.

Applicants are advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for each Group is not required for other Groups, restriction for examination purposes as indicated is proper.

7. A telephone call was made to the office of James M. McPherson (248-292-2920) on 8/18/06 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicants are advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicants traverse on the ground that the inventions or species are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In

either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 571-272-4568. The examiner can normally be reached on M - F, 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tim Phan
Examiner
Art Unit 3729

MINH TRINH
PRIMARY EXAMINER

tp
August 22, 2006